

**475.0.0        *INCLUSIONARY HOUSING***

**475.1.0        *PURPOSE***

The purpose of this Ordinance is to provide a reasonable opportunity for the development of affordable housing within the Town of Litchfield, NH. It is intended to ensure the continued availability of a diverse supply of home ownership and rental opportunities. This Ordinance was established in order to meet the goals related to affordable housing provision set forth in the [Litchfield Master Plan](#), as amended. Additionally, in implementing this Ordinance Litchfield has considered the region's affordable housing need as defined in the Housing and Urban Development ([HUD](#)) [Limits and Allowances](#) data, as amended, and [Nashua Regional Planning Commission Housing Needs Assessment](#), as amended. NH statute requires communities to provide a reasonable opportunity for affordable Workforce Housing in accordance with [RSA 674:58-61](#).

**475.2.0        *AUTHORITY***

This innovative land use control Ordinance is adopted under the authority of [RSA 674:21](#), and is intended as an "Inclusionary Zoning" provision, as defined in RSA 674:21(I)(k) and 674:21(IV)(a).

**475.3.0        *APPLICABILITY***

**475.3.1        *Districts:***

Development in accordance with the provisions of this Ordinance is permitted as a conditional use within the following zoning districts as defined in the Litchfield Zoning Ordinance:

- A. Residential District
- B. Transitional District

**475.3.2        *Permitted Uses:***

In the interest of providing a reasonable opportunity for a mix of affordable housing, single-family, duplex, two-family, multi-family, and pre-site built (modular) is permitted under the following terms of this Ordinance. This conditional use is permitted irrespective of the permitted uses of the underlying zoning requirements in the areas identified above.

Manufactured Housing (mobile home) is not included under this ordinance.

- A. Residential District (South of Leach Brook): single-family, duplex, two-family, and pre-site built (modular).
  - 1. Excluding five-hundred (500) feet either side of the right-of-way of NH 3A (Charles Bancroft Highway) south of Leach Brook;
  - 2. Excluding land designated as State Forest
- B. Residential District (North of Leach Brook): Multi-family (including 5+ units), single-family, duplex, two-family, and pre-site built (modular).
  - 1. Excluding Two-hundred-fifty (250) feet either side of the right-of-way of NH 3A (Charles Bancroft Highway) north of Leach Brook
- C. Transitional District: Mixed-use Commercial/Residential

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1. Excluding five-hundred (500) feet either side of the right-of-way of NH 3A (Charles Bancroft Highway) south of Leach Brook;
2. The residential use shall be accessory and subordinate to the use of the lot for commercial purposes.

**475.3.3**

**Appeals:**

Any person aggrieved by a Planning Board decision that constitutes a denial of a Conditional Use Permit due to noncompliance with one or more of the provisions of this ordinance may appeal that decision to the Superior Court, as provided for in [RSA 677:15](#). A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment ([RSA 676:5 III](#)).

**475.4.0**

**DEFINITIONS**

**Affordable Rental Housing:** where the rent plus utilities for the dwelling unit does not exceed 30 percent of the allowed individual household income.

**Affordable Owner-Occupied Housing:** where the total cost of mortgage principal and interest, mortgage insurance premiums, property taxes, association fees, and homeowner's insurance does not exceed 30 percent of the maximum allowed income of the purchaser. The calculation of housing costs shall be based on current taxes, a 30-year fixed rate mortgage, a 5 percent down payment, and prevailing mortgage rates within the region.

**Area Median Income (AMI):** the median income of the Nashua, NH HUD Metropolitan Fair Market Rent Area to which Litchfield belongs, as is established and updated annually by the United States Department of Housing and Urban Development.

**Assets:** As defined as "Net Family Assets" by 24 CFR Part 5, Subpart F, and as amended from time to time.

**Income:** As defined as "Annual Income" by 24 CFR Part 5, Subpart F, and as amended from time to time. NOTE: Annual Income includes both wage income and assets for determining income eligibility.

**Low Income:** A household income (as defined herein) that does not exceed 50 percent of the area median income.

**Low to Moderate Income:** A household income (as defined herein) that is more than 50 percent and does not exceed 80 percent of the area median income.

**Market Rate Housing:** Any unit within a development, whether the unit is to be owner or renter occupied, that is intended to be available for sale or occupancy at the prevailing market value for the area similar to comparable real estate transactions.

**Moderate Income:** A household income (as defined herein) that is more than 80 percent and does not exceed 100 percent of the area median income.

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**Owner-occupied Housing:** Any dwelling unit intended to be conveyed in fee simple, condominium or equity-sharing arrangement such as a community housing land trust and limited equity cooperatives.

**Rental Housing:** Any dwelling unit intended to be leased.

**475.5.0      *AFFORDABLE HOUSING CATEGORIES AND INCENTIVES***

**475.5.1      Tract Size:**

A site plan or subdivision plan on a minimum lot size of three (3) acres, and will guarantee a minimum of twenty (20) percent of units reserved as affordable housing.

**475.5.2      Qualifying Workforce / Affordable Housing:**

- A. Purchase – Family of four (4): ≤ one-hundred (100) percent of the Area Median Income (AMI) for the HUD Metropolitan Fair Market Rent Area (HMFA) of Nashua, NH / and the combined mortgage loan debt services, property taxes and required insurance that do not exceed thirty (30) percent of the household's gross annual income.
- B. Rental – Family of three (3): ≤ sixty (60) percent of the Area Median (AMI) Income for the HUD Metropolitan Fair Market Rent Area (HMFA) of Nashua, NH / and with a combined rental and utility costs that do not exceed thirty (30) percent of the household's gross annual income.

**475.5.3      Incentives:**

A site plan or subdivision plan may be approved with the benefit of the incentives presented in Table 475.5.3-1. The incentives are a reduction from the underlying zoning district standards. Applicable fire and building code and subsurface waste system setbacks take precedent and may reduce some incentives listed.

**Table 475.5.3-1 Affordable Housing Incentives**

<b>Lot Standards</b>	<b>% Reduction</b>
Frontage	20%
Building Setbacks	20%
Building Envelope / Buildable Area	20%
Minimum Area (Lot Size) Well & Septic	15%
Minimum Area (Lot Size) Municipal Water & Septic	20%
<b>Road Standards</b>	<b>Minimum Width</b>
Minimum Road Width – 2-Way (< 400 vehicles/day)	22 feet paved
Minimum Road Width – 1-Way (< 400 vehicles/day)	18 feet paved

The road standards incentives listed in Table 475.5.3-1 above shall only be permitted if the following requirements are met.

- A. Roadways shall be Town approved and maintained.
- B. Sufficient snow storage area shall be provided along roadways to allow clearing of the full road width and shoulder. The Fire Department requires the entire road width be clear year-round.
- C. No on-street parking is permitted, and roadways shall be properly marked to permit enforcement by the Litchfield Police Department.

**475.5.4**      Dwelling Unit Size:

Proposed affordable dwelling units shall be approximately eighty-five (85) percent of the average Gross Living Area above Ground (GLAAG) of the proposed market rate dwelling units. (E.g. Market rate unit = 3,000 ft<sup>2</sup> / Affordable unit = 2,550 ft<sup>2</sup>) This applies to ownership and rental units. The Planning Board may reduce or exempt a developer from this requirement upon sufficient and verifiable proof of hardship. (E.g. return on investment too low for project viability)

**475.6.0**      ***GENERAL REQUIREMENTS OF AFFORDABLE UNITS***

**475.6.1**      Dwelling Style and Appearance:

The dwellings qualifying as affordable housing shall be compatible in architectural style and appearance with the market rate dwellings in the proposed development. The affordable units should be interspersed throughout the overall development. Unless otherwise approved by the Planning Board, duplex and two-family units shall have no more than one front facing exterior entrance to maintain the predominantly single-family dwelling character of the Town.

**475.6.2**      Construction Schedule and Phasing:

To ensure that the application is completed as permitted, the dwellings qualifying as affordable housing shall be made available for occupancy on approximately the same schedule as a project's market units, except that the certificates of occupancy for the last 10 percent of the market rate units shall be withheld until certificates of occupancy have been issued for all the affordable housing units. A schedule setting forth the phasing of the total number of units in a project under this Ordinance, along with a schedule setting forth the phasing of the required affordable housing units shall be established prior to the issuance of a building permit for any development subject to the provisions of this Ordinance.

**475.6.3**      Certification of Eligible Households – Purchase/Rent:

To ensure that only eligible households purchase/rent the designated affordable housing units, the purchaser/renter of an affordable unit must submit copies of their last three years' federal income tax returns and written certification verifying their annual income level, combined with household assets, does not exceed the maximum level as established by this ordinance in Definitions and Assurance of Continued Affordability sections of this Ordinance. The tax returns and written certification of income and assets must be submitted to the developer of the housing units, or the developer's agent, prior to the transfer of title. A copy of the tax

return and written certification of income and assets must be submitted to all parties charged with administering and monitoring this ordinance, as set forth in the Administration, Compliance and Monitoring section of this Ordinance, within 30 days following the transfer of title.

**475.6.4**      *Required Data from Applicant To Insure Project Affordability:*

- A. Calculation of the number of units provided under this Ordinance and how it relates to its provisions.
- B. Project Cost Estimate including land, development and construction costs; financing, profit, and sales costs; and other cost factors.
- C. Description of each unit's size, type, estimated cost and other relevant data.
- D. Documentation of household eligibility as required in the Certification of Eligible Households – Rent/Purchase section of this Ordinance.
- E. All agreements established as part of the Assurance of Continued Affordability section of this Ordinance.
- F. List of required variances, conditional use permits, and special exceptions including justification of their necessity and effectiveness in contributing to affordability.

**475.7.0**      ***ASSURANCE OF CONTINUED AFFORDABILITY***

In order to qualify as affordable housing under this Ordinance, the developer must make a binding commitment that the affordable housing units will remain affordable for a period of 30 years. This shall be enforced through a deed restriction; restrictive covenant; or a contractual arrangement through a local, state or federal housing authority or other non-profit housing trust or agency. The deed restriction, restrictive covenant, or contractual arrangement shall be in a form acceptable to Town Counsel and approved by the Planning Board. For the 30-year term, the deed restriction, restrictive covenant, or contractual arrangement established to meet this criterion must make the following continued affordability commitments:

**475.7.1**      *For Sale Units – Required Lien Restricting Resale Value:*

Affordable housing units offered for sale shall require a lien be placed on each affordable unit. The lien holder shall be acceptable to Town Counsel and approved by the Planning Board. The Board of Selectmen may be required to approve a lien held by the Town. The value of the lien shall be equal to the difference between the fair market value of the unit and its reduced “affordable” sale price, which is indexed according to the qualifying income standards. The lien is inflated over time at a rate equal to the Consumer Price Index (CPI). Future maximum resale values shall be calculated as the fair market value minus the CPI adjusted lien value. Subsequent sales are not limited based on income targets, but the combination of maintenance of the lien and adherence to this Ordinance’s Definition of Affordable Owner-Occupied Housing for a period of 30 years.

**475.7.2**      *Rental Units – Annual Rent Increase Limits:*

Affordable housing rental units shall limit annual rent increases to the percentage increase in the area median income, except to the extent that further increases are made necessary by hardship or other unusual conditions.

**475.7.3**      *Legal Documents Filed with Town and Registry of Deeds:*

Deed restrictions, restrictive covenants, or contractual arrangements related to dwelling units established under this Ordinance must be documented on all plans filed with the Litchfield Planning Board and the Hillsborough County Registry of Deeds (HCRD).

**475.8.0**      ***ADMINISTRATION, COMPLIANCE AND MONITORING***

**475.8.1**      *Administration:*

This Ordinance shall be administered by the Litchfield Planning Board, local planning department or their designee. Applications for the provisions provided under this Ordinance shall be made to the Planning Board and shall be part of the submission of an application for site plan or subdivision plan approval.

**475.8.2**      *Compliance:*

No certificate of occupancy shall be issued for an affordable housing unit without written confirmation of the income eligibility of the tenant or buyer of the affordable housing unit and confirmation of the rent or price of the affordable housing unit as documented by an executed lease or purchase and sale agreement.

**475.8.3**      *Monitoring:*

On-going responsibility for monitoring the compliance with resale and rental restrictions on affordable units shall be the responsibility of the coordinating local, state or federal housing authority or other non-profit housing trust or agency, or their designee.

**475.8.4**      *Mandatory Annual Reporting:*

The owner of a project containing affordable units for rent shall prepare an annual report, due on the last Friday in January, unless otherwise agreed to by the owner, Planning Board, and coordinating housing authority. The annual report shall certify that the gross rents of affordable units and the household income of tenants of affordable units have been maintained in accordance this Ordinance. Such reports shall be submitted to the coordinating local, state or federal housing authority or other non-profit housing trust or agency, or their designee and shall list the contract rent and occupant household incomes of all affordable housing units for the calendar year.